

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24138 of 2018**

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Deepak Kumar, S/o Ramdev Singh, R/o Thakurbari Road, Shahpur, P.S.-  
Aurangabad (Town), District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
3. The Collector-cum-District Magistrate, Aurangabad
4. The Superintendent of Excise, Aurangabad

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Singh, Advocate  
For the Respondent/s : Mr.Vivek Prasad

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 26-04-2019**

Heard learned counsel for the petitioner and learned  
counsel appearing on behalf of the state.

The petitioner prays for provisional release of the  
Hero Honda CBZ X Motorcycle bearing Registration No. BR-26C-  
7992, which has been seized in connection with Aurangabad  
(Mufassil) P.S. Case No. 94 of 2017 for the offences punishable  
under Sections 279/337/338 of the Indian Penal Code and  
Sections 30(A)/38 of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that



confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 30 liters of country liquor and 6 liters of IMFL.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that the confiscation proceeding is pending, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the District Magistrate, Aurangabad with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in future.

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to



produce the vehicle before the confiscating authority as and when required.

(iv) Prior to release of the vehicle, a *Panchanama* would be got prepared by the District Magistrate, Aurangabad, wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future, if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said *Panchanama* in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above. This release would, however, be subject to finalization of the confiscation proceeding.

With the observations/directions above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Anjani Kumar Sharan, J)**

Nasimul/mrl.

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